REMARKS

Claims 1-38 are pending in the application. Claims 26 and 37 are being amended. No new matter is being introduced by way of this Amendment.

Remarks Regarding Rejection Under 35 U.S.C. 102(e)

The rejection under 35 U.S.C. 102(e) on pages 2 and 3 of the Office Action states, "Claims 26-27 and 37-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Albert et al. (U.S. Patent No. 6650641)". Albert et al. is referred to hereinafter as "Albert."

Claim 26 as now amended recites, "a processor routine operating on said processor, said processor routine providing the actual network address of the processor in a message of the communications unaffected by the network address translation," where the underlined text is a limitation added by way of amendment in the Claim Listing above. Support for this claim amendment can be found at least on page 7, lines 16-22 and Figure 1 of the specification as originally filed. In particular, page 7, lines 19-20 states, "note, however, that the message areas of both packets 115a and 115b have the same server B 110b source address information, unfettered by the network address translation of ATD 130A." Referring further to Figure 1, although the source address information in the message portions of the packets 115a and 115b are unaffected by the network address translation, the source address information in the header portion of the packets does change due to the network address translation.

In contrast, Albert provides a processor, such as processor 252 of Fig. 2B, that transmits packets that communicate through a network translation device. Since there is nothing in Albert indicating the packet address is stored outside of the packet header, which is where a network translation device and other network devices look in a packet to determine source and destination information, Applicants are left to assume Albert's network operates in a traditional manner. Therefore, Applicants submit that the processor inserts its source address into the header portion of the packet, as currently done in the art.

During operation, the Albert processor, using the address in the packet header, sends data through the network translation device (Albert, col. 28, lines 27-33). Sending data through a network translation device is not the same as providing the actual network address of the

processor in a message of the communications, where the communications are unaffected by the network address translation. In other words, Applicants provide an address in the message and, as illustrated in Applicants example of Figure 1, also in the header portion of the packet. By having the network address in the message portion of the packet, Applicants, unlike Albert, the network address is unaffected by the network address translation.

Moreover, one skilled in the art would not be motivated by Albert to include a source network address in the message portion of the packet because first, Albert does not teach or suggest doing so, and second, including an address in the message portion of a packet uses bandwidth that is typically used to carry data for other purposes, not for carrying address information that is found in the header portion of the packet.

Therefore, Applicants respectfully submit Albert does not anticipate all of the limitations of Applicants' now amended claim 26 ("a processor routine operating on said processor, said processor routine providing the actual network address of the processor in a message of the communications unaffected by the network address translation").

Accordingly, Applicants respectfully submit that the rejection of amended claim 26 under 35 U.S.C. 102(e) based on Albert is overcome.

Independent claim 37 is being amended in the Claim Listing above to include similar limitations as now amended claim 26 and, therefore, should be allowed for similar reasons over Albert under 35 U.S.C. 102(e).

Dependent claims 27 and 38 should be allowable over Albert under 35 U.S.C. 102(e) for at least the same reasons as the base claims from which they depend.

Remarks Regarding Rejection Under 35 U.S.C. 103(a)

The rejections on pages 3-13 of the Office Action states, "Claims 1-12, 19-23, and 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al. (U.S. Patent No. 6650641 B1) further in view of Jindal et al. (U.S. Patent No. 6092178)." Jindal et al is hereafter referred to as "Jindal".

Claim 1 recites "monitoring the communications beyond the translating device to infer partitioning of servers behind the translating device."

With regard to Albert, the Office Action states on page 4, part 3, "Albert fails to particularly disclose monitoring the communication beyond the translation device to and infer partitioning of servers behind the translation device into equivalent sets relative to the network topology induced by the network address translation." Applicants agree. Thus, the question becomes whether Jindal makes up for these shortcomings.

With regard to Jindal, Applicants respectfully submit that Jindal does not disclose monitoring communications beyond a translating device to infer partitioning of servers behind the translating device. The Jindal network, as shown in Fig. 2, may be viewed as communicating in two directions (i.e., client to server and server to client). Applicants discuss each direction, in turn.

The first direction of the Jindal network Applicants discuss is of a client 120, located behind a translating device (e.g., DNS server 100), where the client 120 sends a request to identify a preferred server for load balancing purposes. (Jindal, col. 6, lines 33-44). In response to the request, the DNS server 100 identifies a preferred server using a Replicated Monitor Object (RMO) and Individual Monitor Objects (IMOs). However, at no point does the DNS server 100 consider partitioning of servers (e.g., the client 120) behind the translating device. Thus, the DNS server 100 does not infer partitioning of servers behind the translating device, as claimed in Claim 1 by Applicants.

Similarly, the second direction of the Jindal network, as shown in Fig. 2, is a group of servers (110, 112, and 114) in communication with the DNS server 100. In turn, the DNS server 100 communicates with the client 120. However, Jindal does not disclose the DNS server 100 infers partitioning of servers behind the translating device (e.g., the servers 110, 112 or 114).

Thus, Applicants respectfully submit that Jindal discloses a traditional DNS system with load balancing. Combining the teachings of Jindal and the teachings of Albert results in a traditional DNS system with load balancing.

Therefore, Applicants respectfully submit neither Albert nor Jindal, either alone or in combination, teach or suggest all of the limitations of Applicants' claim 1 ("monitoring the communications beyond the translating device to infer partitioning of servers behind the translating device").

Accordingly, Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. 103(a) as being unpatentable over Albert in view of Jindal should be withdrawn.

Independent claims 19, 28, 29, and 30 include similar limitations as claim 1 and, therefore, should be allowed for similar reasons presented above.

Dependent claims 2-18, 20-25, and 31-36 should be allowable for at least the same reasons as the base claims from which they depend.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims (claims 1-38) are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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